

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

UNITED THERAPEUTICS)	
CORPORATION,)	
)	
Plaintiff)	
)	C.A. No. 23-975 (RGA)
v.)	
)	
LIQUIDIA TECHNOLOGIES, INC.,)	
)	
Defendant.)	

PLAINTIFF’S MOTION FOR PRELIMINARY INJUNCTION

Pursuant to Fed. R. Civ. P. 65 and 35 U.S.C. § 283, Plaintiff United Therapeutics Corporation (“UTC”) respectfully moves to enjoin Defendant Liquidia Technologies, Inc. (“Liquidia”) from manufacturing, marketing, storing, importing, distributing, offering for sale, and/or selling Liquidia’s inhaled dry powder formulation of treprostinil, Yutrepia, for the treatment of pulmonary hypertension associated with interstitial lung disease (“PH-ILD”) that will infringe UTC’s U.S. Patent No. 11,826,327 and cause irreparable harm to UTC.

Liquidia is currently barred from launching—whether the original pulmonary arterial hypertension indication or new PH-ILD indication—based on this Court’s final judgment in case no. 20-cv-755-RGA, D.I. 436 (“Final Judgment”), but nonetheless, a preliminary injunction is needed. Liquidia has a pending motion for relief from the Final Judgment that, if granted, would permit Liquidia to launch immediately. To avoid motion practice, UTC has sought Liquidia’s agreement that it would delay any PH-ILD launch until UTC can file and the Court can resolve a motion for preliminary injunction should the Final Judgment be disturbed such as to permit launch. Liquidia flatly refuses and, in fact, has made clear that it intends to launch the moment it is permitted to do so. Thus, this motion is necessary to protect UTC’s rights and maintain the status quo.

The grounds for this motion are fully set forth in UTC's opening brief and in the accompanying declarations identified therein. A proposed form of order is attached.

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/s/ Michael J. Flynn

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February 26, 2024

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CERTIFICATION PURSUANT TO D. DEL. LR 7.1.1

Counsel for Plaintiff conferred with counsel for Defendant, including lead and Delaware counsel, by teleconference on February 23, 2024. The parties were not able to reach agreement on the requested relief.

/s/ Michael J. Flynn

Michael J. Flynn (#5333)

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Defendant.)	

[PROPOSED] ORDER

The Court, having considered Plaintiff United Therapeutics Corporation's ("UTC") Motion for Preliminary Injunction, and the briefing, declarations, and arguments related thereto, finds that the motion should be and is GRANTED.

IT IS HEREBY ORDERED, this _____ day of _____, 2024,
that:

1) Defendant Liquidia Technologies, Inc. ("Liquidia") and its officers, agents, affiliates, employees, attorneys, successors, assigns, and all those persons acting or attempting to act in concert or participation with Liquidia, shall not engage in the commercial manufacturing, marketing, storing, importing, distributing, offering for sale, and/or selling in the United States of Yutrepia, an inhaled dry powder formulation of treprostinil, for the treatment of pulmonary hypertension associated with interstitial lung disease until a final decision on the merits of the issues of infringement, validity, and enforceability of UTC's U.S. Patent No. 11,826,327, as asserted in the First Amended Complaint, or until further order of this Court; and

2) Liquidia shall provide notice of this Order within three (3) days to any officers, agents, affiliates, employees, attorneys, successors, assigns, and all those persons acting or attempting to act in concert or participation with it.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that on February 26, 2024, I caused the foregoing to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to all registered participants.

I further certify that I caused copies of the foregoing document to be served on February 26, 2024, upon the following in the manner indicated:

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